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10/810,029	03/26/2004	Hans Gunter Felske	2003P00483 US	8410

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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT	PAPER NUMBER
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3637

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11/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/810,029	Applicant(s) FELSKE ET AL.	
	Examiner TIMOTHY M. AYRES	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the claimed terms "head portion", "foot portion", "fully fitted position", "axial spacing", "nominal transverse extent", "axial extent", "transverse extent", "first seating extent", "axial thickness", and "shoulder" find no basis in the specification.

Claim Rejections—35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 8–15, 17–27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Claim 8 and 19 recites in lines 12–14 that "the foot portion of the holding pin [has] a nominal transverse extent ... at least as large as the largest transverse extent of the aperture of the second structure"; and in lines 15–16 that "the foot portion of the holding

pin [has], in the fully fitted position of the holding pin, at [sic] a smaller transverse extent than its nominal transverse extent". These limitations are unsupported by the specification, which states that shanks 8, 9 (considered to correspond to the claimed "foot portion") must be forced apart from one another if they are to engage attachment hole 6 (page 11, lines 12–23). This would indicate that the 'nominal transverse extent' of the shanks can be no larger than the extent of hole 6, and that the transverse extent of the shanks in the fully fitted position would be as large as the nominal transverse extent. Further, Fig. 4 shows the holding pin engaging the holes, in what would appear to be the fully fitted position, with the shanks inserted into the hole at what appears to be their nominal transverse extent (no apparent deflection when compared to Fig. 3, for example), which is no larger than the extent of the hole.

5. Claim 13 recites that "the foot portion of the holding pin has a constant transverse extent." This is unsupported by the specification, which states that shanks 8, 9 have "enormous diameter elasticity". For the purposes of this examination, the claim is considered as reciting a constant *nominal* transverse extent.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 8–16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claims 8 and 16 recite the limitations “the first structure” and “the second structure” in lines 5–6 of each claim. There is insufficient antecedent basis for these limitations in the claims. It is unclear whether the claims are directed towards a subcombination (*i.e.*, an attachment device) or a combination (*i.e.*, an appliance containing an attachment device). The preamble to each claim appears to indicate that the claims are directed towards the subcombination, for which the first and second structure of a household appliance are merely an intended use, but each claim contains specific recitations of portions of the appliance, making the scope of the claims unclear.

Claim Rejections—35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 8, 10–14, 16–20, and 22–26 are rejected under 35 U.S.C. 102(b) as being anticipated by Poe, US patent 4,114,509. Poe discloses an attachment apparatus having a holding pin (1) with a head portion (4) and a foot portion (6), disposable into a fully fitted position (Fig. 2) extending through an aperture (24) in a first structure (22) and an aperture (25) in a second structure (23); the foot portion having a nominal transverse extent as large as the extent of the second structure aperture, and exerting a radially outward force against the aperture of the second structure to resist being dislodged; the head portion having a transverse extent larger than the extent of the first

structure aperture; the holding pin further including a first seating extent (5) between the head portion and the foot portion, and a shoulder (8) spaced from the head portion. Though Poe does not expressly teach that the pin maintains the first and second structures at an axial spacing from one another, the pin would inherently be capable of holding the structures spaced apart (as Fig. 2).

Regarding claims 10–14, Poe further discloses a slot (7) formed in the holding pin; a head-type attachment (4, 5) adjoining the slot; an axial bore (3) for receiving an attachment element (2); and a foot portion with a constant nominal transverse extent which undergoes outward radial spreading to be secured to the second structure.

Claim Rejections—35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claim 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poe as applied to claim 8 above, and further in view of Funaki, US patent 4,423,608, and Hoyle et al., US patent 5,129,768. Poe teaches an attachment apparatus substantially as claimed, including a holding pin securing a first structure to a second structure; but does not teach a second structure being a body with a cabinet shape, or a first structure being a work surface panel with a rear surround. Funaki teaches a household appliance (10) having a body (12) with a cabinet shape, and a work surface panel (78) attached thereto, the work surface panel having a rear surround (86) integrally formed thereon, with corresponding holes (see Fig. 2) in the body and work

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surface panel for fasteners to hold the rear surround at a defined height relative to the body. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to use the holding pin of Poe to fasten a work surface panel to a body, as taught by Funaki, for the purpose of securely joining the components of an appliance.

Poe and Funaki do not teach an aperture in the first structure which is an elongated hole. Hoyle et al. teach an attachment apparatus including a holding pin (10) with a head portion (12) and a foot portion (21), securing first and second structures (52, 34) together, the first structure having an elongated hole (32) therein to allow the holding pin to shift to compensate for misalignment of the panels (col. 1, lines 12–16). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the attachment apparatus of Poe, already modified by Funaki, by providing the first structure with an elongated hole, as taught by Hoyle et al., for the purpose of enabling the holding pin to move laterally to accommodate variations in the positions of the body and work surface panel.

13. Claim 15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poe as applied to claim 11 above, and further in view of Wollar et al., US patent 4,610,587. Poe discloses an attachment apparatus substantially as claimed, but not a head-type attachment with a pair of ear-shaped lateral projections, with the slot reaching the projections. Wollar et al. teach a holding pin with a head-type attachment (26), and foot portion (24) with a slot (30) therethrough; further teaching that the head-

type attachment includes two ear-shaped lateral projections (60) with an internal separation as large as the diameter of an attachment element (22), the slot of the holding pin extending as far as the lateral projections (Fig. 18). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the attachment apparatus of Poe by providing the head-type attachment with a pair of ear-shaped lateral projections with the slot extending as far as the projections, as taught by Wollar et al., for the purpose of providing bearing surfaces to engage the attachment element.

Response to Arguments

1. Applicant's arguments filed 9/22/08 have been fully considered but they are not persuasive. The 112 rejections are still deemed to be valid and the art rejections are deemed to recite the claimed features and elements.
2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., no element or structure claimed that prevents a plunger) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
3. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY M. AYRES whose telephone number is (571)272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M. A./
Examiner, Art Unit 3637
11/18/2008

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637